IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

Writ Petition No.308l of 2005

Ms Mirabai S Kamble.. Petitioner

vs

Bhamabai N Savant and anr...Respondents

Mr V B Tapkir for petitioner

CORAM: S.U.KAMDAR J.

Dated 16.l2.2005

P.C:

. The present petition is filed challenging the order passed by the II Adhoc Addl District Judge, Pandharpr in Misc Civil Application No.28 of 2003 dated l8.2.2005. The petitioner preferred an appeal against an exparte decree passed by the trial court being Reg. Civil Appeal No.l7 of 2003. There was delay in filing the appeal. An application was taken out for condonation of the delay. That application was rejected by the impugned order . The respondents are served. Non appears for respondents inspite of service. The petitioner has contended that there was delay in

filing the appeal because there was death of her husband on l6.5.2002 and prior thereto her mother expired on 3.ll.200l and her son also expired on 5.ll.2002 and therefore she was in a frustrated state of mind to engage an advocate to prosecute the appeal. However the appeal court has rejected the application only because no case is made out for condonation of delay. In the facts and circumstances of the case, In my opinion in the present case impugned order is required to be interfered with and set aside. The condonation application preferred by the petitioner before the Adhoc Addl District Judge, is granted. Delay is condoned.The Additional District Judge is directed to hear the appeal on its own merit and dispose of the same in accordance with law. Petition is allowed with no order as to costs.